

EXHIBIT C

1 JAMES D. NGUYEN (State Bar No. 179370)
jimmynguyen@dwt.com
2 SEAN M. SULLIVAN (State Bar No. 229104)
seansullivan@dwt.com
3 DAVIS WRIGHT TREMAINE LLP
865 South Figueroa Street, 24th Floor
4 Los Angeles, California 90017-2566
5 Telephone: (213) 633-6800
6 Fax: (213) 633-6899

7 ZANA BUGAIGHIS (State Bar. No. 257926)
zanabugaighis@dwt.com
8 DAVIS WRIGHT TREMAINE LLP
1201 Third Avenue, Suite 2200
9 Seattle, WA 98101-3045
10 Telephone: (206) 622-3150
11 Fax: (206) 757-7700

12 Attorneys for Defendants

13 GENERAL NUTRITION CENTERS, INC. and
14 GNC HOLDINGS, INC. (erroneously named as
GENERAL HOLDINGS, INC.)

15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

18 JENNA KASKORKIS and KIM
19 CARTER, individually and on behalf of
all others similarly situated,

20 Plaintiff,

21 vs.

22 GENERAL NUTRITION CENTERS,
23 INC., a Delaware Corporation,
GENERAL HOLDINGS, INC., a
24 Delaware Corporation, and DOES 1-10,

25 Defendants.

Case No. **3:16-cv-00990-WQH-JLB**

JUDGE: HON. WILLIAM Q. HAYES
CASE FILED: APRIL 22, 2016

DEFENDANT GENERAL
NUTRITION CENTERS, INC.'S
OBJECTIONS AND RESPONSES TO
PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION

26 PROPOUNDING PARTY: JENNA KASKORKIS AND KIM CARTER

27 RESPONDING PARTY: GENERAL NURITION CENTERS, INC.

28 SET NUMBER: ONE

Pursuant to Federal Rules of Civil Procedure 26 and 34(b), General Nutrition Centers, Inc. (“GNC”) responds to Plaintiffs Jenna Kaskorkis and Kim Carter’s First Set of Request for Production as follows:

GENERAL OBJECTIONS

GNC makes the following General Objections to Plaintiffs’ Requests. GNC reserves the right to supplement, amend, or qualify these General Objections.

1. **Relevance and Scope.** GNC objects to Plaintiffs’ Requests as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek documents unrelated to the Plaintiffs’ allegations as made in the Amended Complaint. Plaintiffs make specific allegations only as to three GNC products and Plaintiffs do not (and cannot) make any allegations regarding GNC membership prices or GNC-branded products which are not similarly situated to the branded products Plaintiffs allegedly purchased on sale. For each unique product, sale prices vary by pricing period and vary further depending on various promotions and coupons available. A class has yet to be certified, and Plaintiffs are limited to claims only for the products (alleged in the Amended Complaint) which they purchased.

Further, GNC objects to Plaintiffs’ Requests to the extent they request GNC produce “all” documents with respect to a specified assertion or subject matter or documents merely “relating” or “referring” to the same as imposing an undue burden out of proportion to the issues in the lawsuit because (a) these requests encompass information with only a remote or tangential relationship to the subject matter described in the request, and (b) they fail to designate the documents requested with reasonable particularity, as Federal Rule of Civil Procedure 34(b)(1)(A) requires. *See Lopez v. Chertoff*, 2009 WL 1575214, *2 (E.D. Cal. 2009) (“The use of the words ‘relating to’ and ‘referring to’ are overly broad because defendant does not have reasonable notice of what is called for and what is not.”).

1 2. **Limitations on Discovery.** This case is an action brought by two
 2 individuals, and the Court has not certified a class. Unless and until the Court
 3 certifies this case as a class action (which GNC believes it should not do), the parties
 4 should limit discovery to issues relevant to class certification. *See Manual for*
 5 *Complex Litigation (Fourth) § 21.14, at 256 (2004)* (“Discovery relevant only to the
 6 merits delays the certification decision and may ultimately be unnecessary.”). GNC
 7 therefore objects to Plaintiffs’ Requests to the extent they purport to seek
 8 information not relevant either to class certification issues or to Plaintiffs’ individual
 9 claims.

10 3. **Undue Complexity.** GNC objects to Plaintiffs’ Definitions,
 11 Instructions, and Rules of Construction, which purport to re-define everyday words
 12 and impose detailed requirements on the routine production of documents. The
 13 Definitions, Instructions, and Rules of Construction appear intended to trap the
 14 unwary by imposing nuanced requirements that exceed the requirements for
 15 responding to requests for production under the Federal Rules of Civil Procedure.
 16 GNC will produce documents pursuant to the Federal Rules of Civil Procedure and
 17 the Local Rules, and objects to Plaintiffs’ effort to impose discovery obligations
 18 above and beyond those imposed by the Federal Rules of Civil Procedure and the
 19 Local Rules. GNC specifically objects to Plaintiffs’ definition of “PRICE(S)” which
 20 cannot be distinguished from Plaintiffs’ definition of “REGULAR PRICE(S).”
 21 GNC will treat these terms as interchangeable.

22 4. **Privilege.** GNC objects to Plaintiffs’ Requests to the extent they seek
 23 information protected from disclosure by privileges and other protections from
 24 production including, without limitation, the attorney-client privilege, the work
 25 product doctrine, joint defense or common-interest privilege, or any other
 26 constitutional, statutory, common law or regulatory protection, immunity or
 27 proscription from disclosure. Where GNC withholds information under claim of
 28 privilege, GNC will so indicate on a privilege log. (It would, however, be unduly

1 burdensome for either party to prepare a privilege log of documents created after
2 Plaintiffs commenced this action, and GNC therefore objects to doing so.) GNC
3 does not intend the inadvertent production of any privileged or protected information
4 to constitute a waiver of GNC's rights to assert any applicable privilege or
5 protection with respect to any such information or any other matter.

6 **5. Third Party Privacy Rights.** GNC objects to Plaintiffs' Requests to
7 the extent they demand information or documents whose disclosure would violate
8 the privacy rights of individuals, confidentiality agreements between GNC and any
9 entity or individual, the confidentiality of settlement discussions or agreements, or
10 court orders restricting the disclosure of information.

11 **6. Proprietary Information and Trade Secrets.** GNC objects to
12 Plaintiffs' Requests to the extent they seek confidential or proprietary business
13 information, trade secrets or commercially sensitive information. GNC will produce
14 documents containing such information only upon entry of an appropriate protective
15 order pursuant to Federal Rule of Civil Procedure 26(c).

16 **7. Supplementation.** GNC's investigation into the factual background of
17 the matters alleged in this action is ongoing and incomplete. Accordingly, these
18 responses reflect only GNC's current knowledge. GNC reserves its right to
19 supplement, amend, or modify its responses as its investigation continues and as
20 discovery proceeds, and to rely on any such information discovered after the time of
21 these responses, at any time up to and including trial. GNC further reserves its right
22 to correct any responses to any Requests made as a result of mistake or inadvertence,
23 and to assert any applicable objections at any time up to and including trial. GNC
24 does not undertake, and hereby disclaims, any obligation to supplement beyond the
25 obligation imposed by the Federal Rules of Civil Procedure. Except as expressly
26 admitted in these responses, no facts should be taken as admitted, implied or
27 inferred. Further, no inference as to the existence of any responsive information or
28 documents should be made from the assertion of any objection to any Requests.

1 **OBJECTIONS AND RESPONSES TO REQUESTS FOR PRODUCTION**

2 REQUEST NO. 1:

3 All DOCUMENTS sufficient to show the (i) product number, (ii) SKU,
4 (iii) PRICE, (iv) MEMBERSHIP PRICE, and, if applicable, (v) SALE PRICE and
5 (vi) REGULAR PRICE of each ONLINE PRODUCT.

6 RESPONSE TO REQUEST NO. 1:

7 GNC objects to this Request under General Objections 1 [relevance and
8 scope], 2 [limitations on discovery], 3 [undue complexity], and 7[supplementation].

9 Furthermore, this Request is overbroad, unduly burdensome, and not
10 reasonably calculated to lead to the discovery of admissible evidence because it asks
11 for information beyond the three GNC products purchased by Plaintiffs (as alleged
12 in the Amended Complaint) and a class has not been certified (and should not be).
13 In fact, this request appears to request information about potentially all products sold
14 on the GNC.com website, and without any time limitation. GNC sells hundreds of
15 products online and in-store making discovery requests regarding every product sold
16 out of proportion with the issues in the lawsuit.

17 Without waiving the foregoing objections, GNC will produce responsive, non-
18 privileged documents sufficient to show the product numbers, PRICE, and SALE
19 PRICE for each of the three products purchased by Plaintiffs (as alleged in the
20 Amended Complaint) from April 2012 to April 2016, if any such documents exist.

21 REQUEST NO. 2:

22 All DOCUMENTS sufficient to show the (i) product number, (ii) SKU,
23 (iii) PRICE, (iv) MEMBERSHIP PRICE, and, if applicable, (v) SALE PRICE and
24 (vi) REGULAR PRICE of each IN-STORE PRODUCT similar or identical to any
25 ONLINE PRODUCT.

1 RESPONSE TO REQUEST NO. 2:

2 GNC objects to this Request under General Objections 1 [relevance and
3 scope], 2 [limitations on discovery], 3 [undue complexity], and 7[supplementation].

4 Furthermore, this Request is overbroad, unduly burdensome, and not
5 reasonably calculated to lead to the discovery of admissible evidence because it asks
6 for information beyond the three GNC products purchased by Plaintiffs (as alleged
7 in the Amended Complaint) and a class has not been certified (and should not be).
8 In fact, this request appears to request information about potentially all products sold
9 on the GNC.com website, and without any time limitation. GNC sells hundreds of
10 products online and in-store making discovery requests regarding every product sold
11 out of proportion with the issues in the lawsuit.

12 Without waiving the foregoing objections, GNC will produce responsive, non-
13 privileged documents sufficient to show the product numbers, PRICE, and SALE
14 PRICE for each of the three products purchased by Plaintiffs (as alleged in the
15 Amended Complaint) from April 2012 to April 2016, if any such documents exist.
16

17 REQUEST NO. 3:

18 All DOCUMENTS and DATA comparing the PRICE of ONLINE
19 PRODUCTS to the PRICE of similar or identical IN-STORE PRODUCTS.

20 RESPONSE TO REQUEST NO. 3:

21 GNC objects to this Request under General Objections 1 [relevance and
22 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
23 [proprietary information and trade secrets], and 7[supplementation].

24 Furthermore, this Request is overbroad, unduly burdensome, and not
25 reasonably calculated to lead to the discovery of admissible evidence because it asks
26 for information beyond the three GNC products purchased by Plaintiffs (as alleged
27 in the Amended Complaint) and a class has not been certified (and should not be).
28 In fact, this request appears to request information about potentially all products sold

1 on the GNC.com website, and without any time limitation. GNC sells hundreds of
2 products online and in-store making discovery requests regarding every product sold
3 out of proportion with the issues in the lawsuit.

4 Without waiving the foregoing objections, GNC will produce responsive, non-
5 privileged documents that compare the PRICE of online products to the PRICE of
6 in-store products for each of the three products purchased by Plaintiffs (as alleged in
7 the Amended Complaint) from April 2012 to April 2016, if any such documents
8 exist.

9

10 REQUEST NO. 4:

11 All DOCUMENTS and DATA comparing the MEMBERSHIP PRICE of
12 ONLINE PRODUCTS to the MEMBERSHIP PRICE of similar or identical
13 IN-STORE PRODUCTS.

14 RESPONSE TO REQUEST NO. 4:

15 GNC objects to this Request under General Objections 1 [relevance and
16 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
17 [proprietary information and trade secrets], and 7[supplementation].

18 Furthermore, this Request is overbroad, unduly burdensome, and not
19 reasonably calculated to lead to the discovery of admissible evidence because
20 Plaintiffs do not (and cannot) make any allegations regarding GNC membership
21 prices. GNC will not produce documents in response to this Request.

22

23 REQUEST NO. 5:

24 All DOCUMENTS and DATA comparing the SALE PRICE of ONLINE
25 PRODUCTS to the SALE PRICE of similar or identical IN-STORE PRODUCTS.

1 RESPONSE TO REQUEST NO. 5:

2 GNC objects to this Request under General Objections 1 [relevance and
3 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
4 [proprietary information and trade secrets], and 7[supplementation].

5 Furthermore, this Request is overbroad, unduly burdensome, and not
6 reasonably calculated to lead to the discovery of admissible evidence because it asks
7 for information beyond the three GNC products purchased by Plaintiffs (as alleged
8 in the Amended Complaint) and a class has not been certified (and should not be).
9 In fact, this request appears to request information about potentially all products sold
10 on the GNC.com website, and without any time limitation. GNC sells hundreds of
11 products online and in-store making discovery requests regarding every product sold
12 out of proportion with the issues in the lawsuit.

13 Without waiving the foregoing objections, GNC will produce responsive, non-
14 privileged documents that compare the SALE PRICE of online products to the
15 SALE PRICE of in-store products for each of the three products purchased by
16 Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if
17 any such documents exist.

18

19 REQUEST NO. 6:

20 All DOCUMENTS and DATA comparing the REGULAR PRICE of
21 ONLINE PRODUCTS to the REGULAR PRICE of similar or identical IN-STORE
22 PRODUCTS.

23 RESPONSE TO REQUEST NO. 6:

24 GNC objects to this Request under General Objections 1 [relevance and
25 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
26 [proprietary information and trade secrets], and 7[supplementation].

27 Furthermore, this Request is overbroad, unduly burdensome, and not
28 reasonably calculated to lead to the discovery of admissible evidence because it asks

1 for information beyond the three GNC products purchased by Plaintiffs (as alleged
 2 in the Amended Complaint) and a class has not been certified (and should not be).
 3 In fact, this request appears to request information about potentially all products sold
 4 on the GNC.com website, and without any time limitation. GNC sells hundreds of
 5 products online and in-store making discovery requests regarding every product sold
 6 out of proportion with the issues in the lawsuit.

7 Without waiving the foregoing objections, GNC will produce responsive, non-
 8 privileged documents that compare the PRICE of online products to the PRICE of
 9 in-store products for each of the three products purchased by Plaintiffs (as alleged in
 10 the Amended Complaint) from April 2012 to April 2016, if any such documents
 11 exist.

12

13 **REQUEST NO. 7:**

14 All DOCUMENTS and DATA RELATING to YOUR current and legacy
 15 policies and procedures, including any instructions, policies, procedures, protocols,
 16 training manuals, training guides, and/or operations manuals, for establishing the
 17 PRICE of ONLINE PRODUCTS.

18 **RESPONSE TO REQUEST NO. 7:**

19 GNC objects to this Request under General Objections 3 [undue complexity],
 20 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

21 Furthermore, this Request is overbroad and unduly burdensome because it
 22 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
 23 and procedures,” rather than just requesting the policies and procedures themselves.
 24 In addition, the reference to “legacy policies and procedures” is unlimited as to time
 25 and is therefore overly broad and unduly burdensome for that further reason.

26 Without waiving the foregoing objections, GNC will produce responsive, non-
 27 privileged documents that constitute policies and procedures for establishing the
 28 PRICE or SALE PRICE of online products to the extent GNC relied on those

1 documents to establish the PRICE or SALE PRICE of online products from April
2 2012 to April 2016 and if GNC's continued investigation determines any such
3 documents exist.

4

5 REQUEST NO. 8:

6 All DOCUMENTS and DATA RELATING to YOUR current and legacy
7 policies and procedures, including any instructions, policies, procedures, protocols,
8 training manuals, training guides, and/or operations manuals, for establishing the
9 MEMBERSHIP PRICE of ONLINE PRODUCTS.

10 RESPONSE TO REQUEST NO. 8:

11 GNC objects to this Request under General Objections 1 [relevance and
12 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
13 [proprietary information and trade secrets], and 7 [supplementation].

14 Furthermore, this Request is overbroad, unduly burdensome, and not
15 reasonably calculated to lead to the discovery of admissible evidence because
16 Plaintiffs do not (and cannot) make any allegations regarding GNC membership
17 prices.

18 This Request is also overbroad and unduly burdensome because it seeks “[a]ll
19 DOCUMENTS and DATA RELATING” to “current and legacy policies and
20 procedures,” rather than just requesting the policies and procedures themselves. In
21 addition, the reference to “legacy policies and procedures” is unlimited as to time
22 and is therefore overly broad and unduly burdensome for that further reason.

23 GNC will not produce documents in response to this Request.

24

25 REQUEST NO. 9:

26 All DOCUMENTS and DATA RELATING to YOUR current and legacy
27 policies and procedures, including any instructions, policies, procedures, protocols,

28

1 training manuals, training guides, and/or operations manuals, for establishing the
2 SALE PRICE of ONLINE PRODUCTS.

3 RESPONSE TO REQUEST NO. 9:

4 GNC objects to this Request under General Objections 3 [undue complexity],
5 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

6 Furthermore, this Request is overbroad and unduly burdensome because it
7 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
8 and procedures” rather than just requesting the policies and procedures themselves.
9 In addition, the reference to “legacy policies and procedures” is unlimited as to time
10 and is therefore overly broad and unduly burdensome for that further reason.

11 Without waiving the foregoing objections, GNC will produce responsive, non-
12 privileged documents that constitute policies and procedures for establishing the
13 PRICE or SALE PRICE of online products to the extent GNC relied on those
14 documents to establish the PRICE or SALE PRICE of online products from April
15 2012 to April 2016 and if GNC’s continued investigation determines any such
16 documents exist.

17
18 REQUEST NO. 10:

19 All DOCUMENTS and DATA RELATING to YOUR current and legacy
20 policies and procedures, including any instructions, policies, procedures, protocols,
21 training manuals, training guides, and/or operations manuals, for establishing the
22 REGULAR PRICE of ONLINE PRODUCTS.

23 RESPONSE TO REQUEST NO. 10:

24 GNC objects to this Request under General Objections 3 [undue complexity],
25 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

26 Furthermore, this Request is overbroad and unduly burdensome because it
27 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
28 and procedures” rather than just requesting the policies and procedures themselves.

1 In addition, the reference to “legacy policies and procedures” is unlimited as to time
2 and is therefore overly broad and unduly burdensome for that further reason.

3 Without waiving the foregoing objections, GNC will produce responsive, non-
4 privileged documents that constitute policies and procedures for establishing the
5 PRICE or SALE PRICE of online products to the extent GNC relied on those
6 documents to establish the PRICE or SALE PRICE of online products from April
7 2012 to April 2016 and if GNC’s continued investigation determines any such
8 documents exist.

9

10 REQUEST NO. 11:

11 All DOCUMENTS and DATA RELATING to YOUR current and legacy
12 policies and procedures, including any instructions, policies, procedures, protocols,
13 training manuals, training guides, and/or operations manuals, for establishing the
14 PRICE of IN-STORE PRODUCTS.

15 RESPONSE TO REQUEST NO. 11:

16 GNC objects to this Request under General Objections 3 [undue complexity],
17 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

18 Furthermore, this Request is overbroad and unduly burdensome because it
19 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
20 and procedures” rather than just requesting the policies and procedures themselves.
21 In addition, the reference to “legacy policies and procedures” is unlimited as to time
22 and is therefore overly broad and unduly burdensome for that further reason.

23 Without waiving the foregoing objections, GNC will produce responsive, non-
24 privileged documents that constitute policies and procedures for establishing the
25 PRICE or SALE PRICE of online products to the extent GNC relied on those
26 documents to establish the PRICE or SALE PRICE of online products from April
27 2012 to April 2016 and if GNC’s continued investigation determines any such
28 documents exist.

1
2 REQUEST NO. 12:

3 All DOCUMENTS and DATA that RELATING to YOUR current and legacy
4 policies and procedures, including any instructions, policies, procedures, protocols,
5 training manuals, training guides, and/or operations manuals, for establishing the
6 MEMBERSHIP PRICE of IN-STORE PRODUCTS.

7 RESPONSE TO REQUEST NO. 12:

8 GNC objects to this Request under General Objections 1 [relevance and
9 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
10 [proprietary information and trade secrets], and 7 [supplementation].

11 Furthermore, this Request is overbroad, unduly burdensome, and not
12 reasonably calculated to lead to the discovery of admissible evidence because
13 Plaintiffs do not (and cannot) make any allegations regarding GNC membership
14 prices.

15 This Request is also overbroad and unduly burdensome because it seeks “[all]
16 DOCUMENTS and DATA RELATING” to “current and legacy policies and
17 procedures” rather than just requesting the policies and procedures themselves. In
18 addition, the reference to “legacy policies and procedures” is unlimited as to time
19 and is therefore overly broad and unduly burdensome for that further reason.

20 GNC will not produce documents in response to this Request.

21
22 REQUEST NO. 13:

23 All DOCUMENTS and DATA that RELATING to YOUR current and legacy
24 policies and procedures, including any instructions, policies, procedures, protocols,
25 training manuals, training guides, and/or operations manuals, for establishing the
26 SALE PRICE of IN-STORE PRODUCTS.

1 RESPONSE TO REQUEST NO. 13:

2 GNC objects to this Request under General Objections 3 [undue complexity],
3 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

4 Furthermore, this Request is overbroad and unduly burdensome because it
5 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
6 and procedures” rather than just requesting the policies and procedures themselves.
7 In addition, the reference to “legacy policies and procedures” is unlimited as to time
8 and is therefore overly broad and unduly burdensome for that further reason.

9 Without waiving the foregoing objections, GNC will produce responsive, non-
10 privileged documents that constitute policies and procedures for establishing the
11 SALE PRICE of online products to the extent GNC relied on these documents to
12 establish the SALE PRICE of in-store products from April 2012 to April 2016, if
13 any such documents exist.

14

15 REQUEST NO. 14:

16 All DOCUMENTS and DATA that RELATING to YOUR current and legacy
17 policies and procedures, including any instructions, policies, procedures, protocols,
18 training manuals, training guides, and/or operations manuals, for establishing the
19 REGULAR PRICE of IN-STORE PRODUCTS.

20 RESPONSE TO REQUEST NO. 14:

21 GNC objects to this Request under General Objections 3 [undue complexity],
22 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

23 Furthermore, this Request is overbroad and unduly burdensome because it
24 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
25 and procedures” rather than just requesting the policies and procedures themselves.
26 In addition, the reference to “legacy policies and procedures” is unlimited as to time
27 and is therefore overly broad and unduly burdensome for that further reason.

Without waiving the foregoing objections, GNC will produce responsive, non-privileged documents that constitute policies and procedures for establishing the PRICE or SALE PRICE of online products to the extent GNC relied on those documents to establish the PRICE or SALE PRICE of online products from April 2012 to April 2016 and if GNC's continued investigation determines any such documents exist.

REQUEST NO. 15:

All DOCUMENTS and DATA RELATING to the determination of the REGULAR PRICE of ONLINE PRODUCTS.

RESPONSE TO REQUEST NO. 15:

GNC objects to this Request under General Objections 1 [relevance and scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

Furthermore, this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it asks for pricing documentation for products beyond the three GNC products purchase by Plaintiffs (as alleged in the Amended Complaint) and a class has not been certified (and should not be). In fact, this request appears to request information about potentially all products sold on the GNC.com website, and without any time limitation. GNC sells hundreds of products online and in-store making discovery requests regarding every product sold out of proportion with the issues in the lawsuit. This Request is also overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and DATA RELATING” to determination of price rather than just documents relied upon to establish GNC’s pricing for the products at issue.

Without waiving the foregoing objections, GNC will produce responsive, non-privileged documents that constitute documents GNC relied upon to establish the online PRICE for each of the three products purchased by Plaintiffs (as alleged in

1 the Amended Complaint) from April 2012 to April 2016, if any such documents
2 exist.

3

4 **REQUEST NO. 16:**

5 All DOCUMENTS and DATA RELATING to the determination of the SALE
6 PRICE of ONLINE PRODUCTS.

7 **RESPONSE TO REQUEST NO. 16:**

8 GNC objects to this Request under General Objections 1 [relevance and
9 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
10 [proprietary information and trade secrets], and 7 [supplementation].

11 Furthermore, this Request is overbroad, unduly burdensome, and not
12 reasonably calculated to lead to the discovery of admissible evidence because it asks
13 for pricing documentation for products beyond the three GNC products purchased
14 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
15 certified (and should not be). In fact, this request appears to request information
16 about potentially all products sold on the GNC.com website, and without any time
17 limitation. GNC sells hundreds of products online and in-store making discovery
18 requests regarding every product sold out of proportion with the issues in the
19 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
20 “[a]ll DOCUMENTS and DATA RELATING” to determination of price rather than
21 documents relied upon to establish GNC’s pricing for the products at issue.

22 Without waiving the foregoing objections, GNC will produce responsive, non-
23 privileged documents that constitute documents GNC relied upon to establish the
24 online SALE PRICE for each of the three products purchased by Plaintiffs (as
25 alleged in the Amended Complaint) from April 2012 to April 2016, if any such
26 documents exist.

1
2 REQUEST NO. 17:

3 All DOCUMENTS and DATA RELATING to changes or proposed changes
4 to the PRICE of ONLINE PRODUCTS.

5 RESPONSE TO REQUEST NO. 17:

6 GNC objects to this Request under General Objections 1 [relevance and
7 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
8 [proprietary information and trade secrets], and 7 [supplementation].

9 Furthermore, this Request is overbroad, unduly burdensome, and not
10 reasonably calculated to lead to the discovery of admissible evidence because it asks
11 for pricing documentation for products beyond the three GNC products purchased
12 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
13 certified (and should not be). In fact, this request appears to request information
14 about potentially all products sold on the GNC.com website, and without any time
15 limitation. GNC sells hundreds of products online and in-store making discovery
16 requests regarding every product sold out of proportion with the issues in the
17 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
18 “[a]ll DOCUMENTS and DATA RELATING” to price changes (and proposed
19 changes) rather than just documents relied upon to establish GNC’s pricing changes
20 for the products at issue.

21 Without waiving the foregoing objections, GNC will produce responsive, non-
22 privileged documents that constitute documents GNC relied upon to establish
23 changes to the online PRICE for each of the three products purchased by Plaintiffs
24 (as alleged in the Amended Complaint) from April 2012 to April 2016, if any such
25 documents exist.

1 REQUEST NO. 18:

2 All DOCUMENTS and DATA RELATING to changes or proposed changes
3 to the MEMBERSHIP PRICE of ONLINE PRODUCTS.

4 RESPONSE TO REQUEST NO. 18:

5 GNC objects to this Request under General Objections 1 [relevance and
6 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
7 [proprietary information and trade secrets], and 7 [supplementation].

8 Furthermore, this Request is overbroad, unduly burdensome, and not
9 reasonably calculated to lead to the discovery of admissible evidence because
10 Plaintiffs do not (and cannot) make any allegations regarding GNC membership
11 prices. This Request is also overbroad and unduly burdensome because it seeks
12 “[a]ll DOCUMENTS and DATA RELATING” to price changes (and proposed
13 changes) rather than documents relied upon to establish GNC’s pricing changes for
14 the products at issue.

15 GNC will not produce documents in response to this Request.

16

17 REQUEST NO. 19:

18 All DOCUMENTS and DATA RELATING to changes or proposed changes
19 to the SALE PRICE of ONLINE PRODUCTS.

20 RESPONSE TO REQUEST NO. 19:

21 GNC objects to this Request under General Objections 1 [relevance and
22 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
23 [proprietary information and trade secrets], and 7 [supplementation].

24 Furthermore, this Request is overbroad, unduly burdensome, and not
25 reasonably calculated to lead to the discovery of admissible evidence because it asks
26 for pricing documentation for products beyond the three GNC products purchased
27 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
28 certified (and should not be). In fact, this request appears to request information

1 about potentially all products sold on the GNC.com website, and without any time
2 limitation. GNC sells hundreds of products online and in-store making discovery
3 requests regarding every product sold out of proportion with the issues in the
4 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
5 “[a]ll DOCUMENTS and DATA RELATING” to price changes (and proposed
6 changes) rather than just documents relied upon to establish GNC’s sale pricing
7 changes for the products at issue.

8 Without waiving the foregoing objections, GNC will produce responsive, non-
9 privileged documents that constitute documents GNC relied upon to establish
10 changes to the online SALE PRICE for each of the three products purchased by
11 Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if
12 any such documents exist.

13

14 **REQUEST NO. 20:**

15 All DOCUMENTS and DATA RELATING to changes or proposed changes
16 to the REGULAR PRICE of ONLINE PRODUCTS.

17 **RESPONSE TO REQUEST NO. 20:**

18 GNC objects to this Request under General Objections 1 [relevance and
19 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
20 [proprietary information and trade secrets], and 7 [supplementation].

21 Furthermore, this Request is overbroad, unduly burdensome, and not
22 reasonably calculated to lead to the discovery of admissible evidence because it asks
23 for pricing documentation for products beyond the three GNC products purchase by
24 Plaintiffs (as alleged in the Amended Complaint) and a class has not been certified
25 (and should not be). In fact, this request appears to request information about
26 potentially all products sold on the GNC.com website, and without any time
27 limitation. GNC sells hundreds of products online and in-store making discovery
28 requests regarding every product sold out of proportion with the issues in the

1 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
 2 “[a]ll DOCUMENTS and DATA RELATING” to price changes (and proposed
 3 changes) rather than just documents relied upon to establish GNC’s pricing changes
 4 for the products at issue.

5 Without waiving the foregoing objections, GNC will produce responsive, non-
 6 privileged documents that constitute documents GNC relied upon to establish
 7 changes to the online PRICE for each of the three products purchased by Plaintiffs
 8 (as alleged in the Amended Complaint) from April 2012 to April 2016, if any such
 9 documents exist.

10

11 **REQUEST NO. 21:**

12 All DOCUMENTS and DATA RELATING to YOUR current and legacy
 13 policies and procedures, including any instructions, policies, procedures, protocols,
 14 training manuals, training guides, and/or operations manuals, for ensuring the
 15 REGULAR PRICE for a given ONLINE PRODUCT is one at which the ONLINE
 16 PRODUCT was openly and actively offered for sale, for a reasonably substantial
 17 period of time, in the recent, regular course of business.

18

RESPONSE TO REQUEST NO. 21:

19 GNC objects to this Request under General Objections 1 [relevance and
 20 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
 21 [proprietary information and trade secrets], and 7 [supplementation].

22

Furthermore, this Request is overbroad and unduly burdensome because it
 seeks “[a]ll DOCUMENTS and DATA RELATING” to “current and legacy policies
 and procedures” rather than just requesting the policies and procedures themselves.
 In addition, the reference to “legacy policies and procedures” is unlimited as to time
 and is therefore overly broad and unduly burdensome for that further reason.

27

Without waiving the foregoing objections, GNC will produce responsive, non-
 privileged documents that constitute policies and procedures for establishing the

1 PRICE or SALE PRICE of online products to the extent GNC relied on those
2 documents to establish the PRICE or SALE PRICE of online products from April
3 2012 to April 2016 and if GNC's continued investigation determines any such
4 documents exist.

5

6 **REQUEST NO. 22:**

7 All DOCUMENTS and DATA RELATING to YOUR compliance with
8 California Business & Professions Code, Section 17501.

9 **RESPONSE TO REQUEST NO. 22:**

10 GNC objects to this Request under General Objections 1 [relevance and
11 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
12 [proprietary information and trade secrets], and 7 [supplementation]. This Request
13 is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and
14 DATA RELATING” to compliance with a statute generally without reference to any
15 particular time period, subject matter, products or other appropriate limitation.

16 GNC will not produce documents in response to this Request.

17

18 **REQUEST NO. 23:**

19 All DOCUMENTS and DATA RELATING to YOUR compliance with
20 federal or state laws and regulations regarding the advertisement of discount prices
21 on YOUR SITE.

22 **RESPONSE TO REQUEST NO. 23:**

23 GNC objects to this Request under General Objections 1 [relevance and
24 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
25 [proprietary information and trade secrets], and 7 [supplementation]. This Request
26 is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and
27 DATA RELATING” to compliance with undefined federal and state laws (which

28

1 could be numerous) generally without reference to any particular time period,
2 subject matter, products or other appropriate limitation.

3 GNC will not produce documents in response to this Request.
4

5 REQUEST NO. 24:

6 All DOCUMENTS and DATA, sufficient to separately identify each customer
7 who purchased ONLINE PRODUCTS advertised with a REGULAR PRICE at the
8 time of purchase.

9 RESPONSE TO REQUEST NO. 24:

10 GNC objects to this Request under General Objections 1 [relevance and
11 scope], 2 [limitations on discovery], 3 [undue complexity], 5 [third party privacy
12 rights], 6 [proprietary information and trade secrets], and 7[supplementation].

13 Furthermore, this Request is overbroad, unduly burdensome, and not
14 reasonably calculated to lead to the discovery of admissible evidence because it asks
15 for information beyond the three GNC products purchased by Plaintiffs (as alleged
16 in the Amended Complaint) and a class has not been certified (and should not be).
17 In fact, this request appears to request information about potentially all products sold
18 on the GNC.com website, and without any time limitation. In fact, this request
19 appears to request information about potentially all products sold on the GNC.com
20 website, and without any time limitation. GNC sells hundreds of products online
21 and in-store making discovery requests regarding every product sold out of
22 proportion with the issues in the lawsuit.

23 GNC further objects to this Request to the extent it calls for GNC to produce
24 personally identifiable information. GNC is not obligated to produce such names
25 and other identifying information when no class has been certified.

26 GNC will not produce documents in response to this Request.
27

REQUEST NO. 25:

All DOCUMENTS and DATA RELATING to the decision to feature or display the REGULAR PRICE on YOUR SITE.

RESPONSE TO REQUEST NO. 25:

GNC objects to this Request under General Objections 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation]. This Request is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and DATA” without any limitation as to products or time period.

Furthermore, this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it asks for information beyond the three GNC products purchased by Plaintiffs (as alleged in the Amended Complaint) and a class has not been certified (and should not be). In fact, this request appears to request information about potentially all products sold on the GNC.com website, and without any time limitation. In fact, this request appears to request information about potentially all products sold on the GNC.com website, and without any time limitation. GNC sells hundreds of products online and in-store making discovery requests regarding every product sold out of proportion with the issues in the lawsuit.

Without waiving the foregoing objections, GNC will produce responsive, non-privileged documents concerning GNC's decision to display the PRICE online for the three products purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if any such documents exist.

REQUEST NO. 26:

All DOCUMENTS and DATA RELATING to changes or proposed changes to the pricing information displayed on YOUR SITE.

RESPONSE TO REQUEST NO. 26:

GNC objects to this Request under General Objections 1 [relevance and scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

Furthermore, this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it asks for pricing documentation for products beyond the three GNC products purchased by Plaintiffs (as alleged in the Amended Complaint) and a class has not been certified (and should not be). In fact, this request appears to request information about potentially all products sold on the GNC.com website, and without any time limitation. GNC sells hundreds of products online and in-store making discovery requests regarding every product sold out of proportion with the issues in the lawsuit. This Request is also overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

Without waiving the foregoing objections, GNC will produce responsive, non-privileged documents that constitute documents GNC relied upon to establish changes to the online PRICE or SALE PRICE for the three products purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if any such documents exist.

REQUEST NO. 27:

All DOCUMENTS and DATA RELATING to sales and marketing strategies
for discounted ONLINE PRODUCTS.

RESPONSE TO REQUEST NO. 27:

GNC objects to this Request under General Objections 1 [relevance and scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

1 Furthermore, this Request is overbroad, unduly burdensome, and not
2 reasonably calculated to lead to the discovery of admissible evidence because it asks
3 for pricing documentation for products beyond the three GNC products purchased
4 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
5 certified (and should not be). In fact, this request appears to request information
6 about potentially all products sold on the GNC.com website, and without any time
7 limitation. GNC sells hundreds of products online and in-store making discovery
8 requests regarding every product sold out of proportion with the issues in the
9 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
10 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

11 Without waiving the foregoing objections, GNC will produce responsive, non-
12 privileged documents that constitute sales and marketing strategies to the extent
13 GNC relied on these documents to establish the PRICE or SALE PRICE for the
14 three products purchased by Plaintiffs (as alleged in the Amended Complaint) from
15 April 2012 to April 2016, if any such documents exist.

16
17 **REQUEST NO. 28:**

18 All DOCUMENTS and DATA RELATING to changes or proposed changes
19 to the marketing or advertising of discounted ONLINE PRODUCTS.

20 **RESPONSE TO REQUEST NO. 28:**

21 GNC objects to this Request under General Objections 1 [relevance and
22 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
23 [proprietary information and trade secrets], and 7 [supplementation].

24 Furthermore, this Request is overbroad, unduly burdensome, and not
25 reasonably calculated to lead to the discovery of admissible evidence because it asks
26 for pricing documentation for products beyond the three GNC products purchased
27 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
28 certified (and should not be). In fact, this request appears to request information

1 about potentially all products sold on the GNC.com website, and without any time
2 limitation. GNC sells hundreds of products online and in-store making discovery
3 requests regarding every product sold out of proportion with the issues in the
4 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
5 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

6 Because GNC cannot determine what documents are requested, GNC will not
7 produce documents in response to this Request.

8

9 **REQUEST NO. 29:**

10 All DOCUMENTS and DATA RELATING to the effectiveness of all
11 advertised discounts as exhibited on YOUR SITE, including studies, evaluations,
12 and marketing analyses.

13 **RESPONSE TO REQUEST NO. 29:**

14 GNC objects to this Request under General Objections 1 [relevance and
15 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
16 [proprietary information and trade secrets], and 7 [supplementation].

17 Furthermore, this Request is overbroad, unduly burdensome, and not
18 reasonably calculated to lead to the discovery of admissible evidence because it asks
19 for pricing documentation for products beyond the three GNC products purchased
20 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
21 certified (and should not be). In fact, this request appears to request information
22 about potentially all products sold on the GNC.com website, and without any time
23 limitation. GNC sells hundreds of products online and in-store making discovery
24 requests regarding every product sold out of proportion with the issues in the
25 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
26 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

27 Without waiving the foregoing objections, GNC will produce responsive, non-
28 privileged documents that constitute studies, evaluations, and marketing analyses

1 concerning the effectiveness of advertised discounts for each of the three products
2 purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to
3 April 2016, if any such documents exist.

4

5 REQUEST NO. 30:

6 All DOCUMENTS and DATA RELATING to the financial result, benefit,
7 and/or consequence listing goods on YOUR SITE with a discount or REGULAR
8 PRICE.

9 RESPONSE TO REQUEST NO. 30:

10 GNC objects to this Request under General Objections 1 [relevance and
11 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
12 [proprietary information and trade secrets], and 7 [supplementation].

13 Furthermore, this Request is overbroad, unduly burdensome, and not
14 reasonably calculated to lead to the discovery of admissible evidence because it asks
15 for pricing documentation for products beyond the three GNC products purchased
16 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
17 certified (and should not be). In fact, this request appears to request information
18 about potentially all products sold on the GNC.com website, and without any time
19 limitation. GNC sells hundreds of products online and in-store making discovery
20 requests regarding every product sold out of proportion with the issues in the
21 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
22 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

23 Without waiving the foregoing objections, GNC will produce responsive, non-
24 privileged documents concerning the financial result, benefit, and/or consequence of
25 advertised discounts for each of the three products purchased by Plaintiffs (as
26 alleged in the Amended Complaint) from April 2012 to April 2016, if any such
27 documents exist.

28

1 REQUEST NO. 31:

2 All DOCUMENTS and DATA that report, describe, summarize, analyze,
3 discuss or comment on the pricing of other retailers.

4 RESPONSE TO REQUEST NO. 31:

5 GNC objects to this Request under General Objections 1 [relevance and
6 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
7 [proprietary information and trade secrets], and 7 [supplementation].

8 Furthermore, this Request is overbroad, unduly burdensome, and not
9 reasonably calculated to lead to the discovery of admissible evidence because it asks
10 for pricing documentation for products beyond the three GNC products purchased
11 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
12 certified (and should not be). In fact, this request appears to request information
13 about potentially all products sold on the GNC.com website, and without any time
14 limitation. GNC sells hundreds of products online and in-store making discovery
15 requests regarding every product sold out of proportion with the issues in the
16 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
17 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

18 Without waiving the foregoing objections, GNC will produce responsive, non-
19 privileged documents that report, describe, summarize, analyze, discuss, or comment
20 on the pricing of GNC competitors for each of the three products purchased by
21 Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if
22 any such documents exist.

23
24 REQUEST NO. 32:

25 All DOCUMENTS and DATA that establish the retail price of similar
26 competitor products.

1 **RESPONSE TO REQUEST NO. 32:**

2 GNC objects to this Request under General Objections 1 [relevance and
 3 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
 4 [proprietary information and trade secrets], and 7 [supplementation].

5 Furthermore, this Request is overbroad, unduly burdensome, and not
 6 reasonably calculated to lead to the discovery of admissible evidence because it asks
 7 for pricing documentation for products beyond the three GNC products purchased
 8 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
 9 certified (and should not be). In fact, this request appears to request information
 10 about potentially all products sold on the GNC.com website, and without any time
 11 limitation. GNC sells hundreds of products online and in-store making discovery
 12 requests regarding every product sold out of proportion with the issues in the
 13 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
 14 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

15 Without waiving the foregoing objections, GNC will produce responsive, non-
 16 privileged documents that concern the price at which competitors sold each product
 17 purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to
 18 April 2016, if any such documents exist.

19

20 **REQUEST NO. 33:**

21 All DOCUMENTS and DATA comparing the REGULAR PRICE of
 22 ONLINE PRODUCTS to the retail price of similar competitor products.

23 **RESPONSE TO REQUEST NO. 33:**

24 GNC objects to this Request under General Objections 1 [relevance and
 25 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
 26 [proprietary information and trade secrets], and 7 [supplementation].

27 Furthermore, this Request is overbroad, unduly burdensome, and not
 28 reasonably calculated to lead to the discovery of admissible evidence because it asks

1 for pricing documentation for products beyond the three GNC products purchased
 2 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
 3 certified (and should not be). In fact, this request appears to request information
 4 about potentially all products sold on the GNC.com website, and without any time
 5 limitation. GNC sells hundreds of products online and in-store making discovery
 6 requests regarding every product sold out of proportion with the issues in the
 7 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
 8 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

9 Without waiving the foregoing objections, GNC will produce responsive, non-
 10 privileged documents that concern the price at which competitors sold each product
 11 purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to
 12 April 2016, if any such documents exist.

13

14 **REQUEST NO. 34:**

15 All DOCUMENTS and DATA comparing the SALE PRICE of ONLINE
 16 PRODUCTS to the corresponding retail price of similar competitor products.

17 **RESPONSE TO REQUEST NO. 34:**

18 GNC objects to this Request under General Objections 1 [relevance and
 19 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
 20 [proprietary information and trade secrets], and 7 [supplementation].

21 Furthermore, this Request is overbroad, unduly burdensome, and not
 22 reasonably calculated to lead to the discovery of admissible evidence because it asks
 23 for pricing documentation for products beyond the three GNC products purchased
 24 by Plaintiffs (as alleged in the Amended Complaint) and a class has not been
 25 certified (and should not be). In fact, this request appears to request information
 26 about potentially all products sold on the GNC.com website, and without any time
 27 limitation. GNC sells hundreds of products online and in-store making discovery
 28 requests regarding every product sold out of proportion with the issues in the

1 lawsuit. This Request is also overbroad and unduly burdensome because it seeks
2 “[a]ll DOCUMENTS and DATA” without limitation as to products or time period.

3 Without waiving the foregoing objections, GNC will produce responsive, non-
4 privileged documents that concern the price at which competitors sold each product
5 purchased by Plaintiffs (as alleged in the Amended Complaint) from April 2012 to
6 April 2016, if any such documents exist.

7

8 REQUEST NO. 35:

9 All DOCUMENTS and DATA REGARDING the design, development,
10 modification, and engineering of YOUR SITE RELATED to the display of PRICE,
11 MEMBERSHIP PRICE, SALE PRICE, and REGULAR PRICE, including but not
12 limited to font, color, and the presence or absence of strike-through.

13 RESPONSE TO REQUEST NO. 35:

14 GNC objects to this Request under General Objections 3 [undue complexity],
15 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

16 Furthermore, this Request is overbroad and unduly burdensome because it
17 seeks “[a]ll DOCUMENTS and DATA” without limitation as to products or time
18 period.

19 Without waiving the foregoing objections, GNC will produce responsive, non-
20 privileged documents that constitute policies and procedures for displaying the
21 PRICE or SALE PRICE of online products to the extent GNC relied on those
22 documents to display the PRICE or SALE PRICE of online products from April
23 2012 to April 2016 and if GNC’s continued investigation determines any such
24 documents exist.

25

26 REQUEST NO. 36:

27 All DOCUMENTS and DATA pertaining to the cost of manufacturing
28 ONLINE PRODUCTS.

1 RESPONSE TO REQUEST NO. 36:

2 GNC objects to this Request under General Objections 1 [relevance and
3 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
4 [proprietary information and trade secrets], and 7 [supplementation].

5 Furthermore, this Request is overbroad, unduly burdensome, and not
6 reasonably calculated to lead to the discovery of admissible evidence because
7 Plaintiffs do not (and cannot) make any allegations regarding GNC manufactured
8 products. Many products sold on GNC.com are not GNC manufactured products.
9 This Request is also overbroad and unduly burdensome because it seeks “[a]ll
10 DOCUMENTS and DATA” without limitation as to products or time period.

11 GNC will not produce documents in response to this Request.

12 REQUEST NO. 37:

14 All contracts with suppliers and manufacturers of all ONLINE PRODUCTS.

15 RESPONSE TO REQUEST NO. 37:

16 GNC objects to this Request under General Objections 1 [relevance and
17 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
18 [proprietary information and trade secrets], and 7 [supplementation].

19 Furthermore, this Request is overbroad, unduly burdensome, and not
20 reasonably calculated to lead to the discovery of admissible evidence because seeks
21 information not related to the allegations of the Amended Complaint. This Request
22 is also overbroad and unduly burdensome because it seeks “[a]ll contracts” for “all
23 ONLINE PRODUCTS” without limitation as to products, suppliers, manufacturers
24 or time period.

25 GNC will not produce documents in response to this Request.

1 REQUEST NO. 38:

2 Exemplar copies of marketing materials and advertisements used by YOU or
 3 by any THIRD PARTY on YOUR behalf PERTAINING to the ONLINE
 4 PRODUCTS. This request includes marketing materials and advertisements both
 5 disseminated and not disseminated to the public, in addition to drafts of such
 6 marketing materials and advertisements.

7 RESPONSE TO REQUEST NO. 38:

8 GNC objects to this Request under General Objections 1 [relevance and
 9 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
 10 [proprietary information and trade secrets], and 7[supplementation].

11 Furthermore, this Request is overbroad, unduly burdensome, and not
 12 reasonably calculated to lead to the discovery of admissible evidence because it asks
 13 for information beyond the three GNC products purchased by Plaintiffs (as alleged
 14 in the Amended Complaint) and a class has not been certified (and should not be).
 15 In fact, this request appears to request information about potentially all products sold
 16 on the GNC.com website, and without any time limitation. GNC sells hundreds of
 17 products online and in-store making discovery requests regarding every product sold
 18 out of proportion with the issues in the lawsuit. This Request is also overbroad and
 19 unduly burdensome because it seeks exemplars without limitation as to products or
 20 time period.

21 Without waiving the foregoing objections, GNC will produce responsive, non-
 22 privileged documents that constitute representative GNC marketing materials and
 23 advertisements disseminated to the public for each product purchased by Plaintiffs
 24 (as alleged in the Amended Complaint) from April 2012 to April 2016, if any such
 25 documents exist.

1
2 REQUEST NO. 39:

3 All DOCUMENTS and DATA RELATING to complaints, questions, or
4 grievances received by YOU RELATING to any discount offered on ONLINE
5 PRODUCTS, including but not limited to legal complaints, complaints to customer
6 services and regulatory agencies, and YOUR responses to such complaints.

7 RESPONSE TO REQUEST NO. 39:

8 GNC objects to this Request under General Objections 1 [relevance and
9 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 5 [third
10 party privacy rights], 6 [proprietary information and trade secrets], and
11 7 [supplementation].

12 Furthermore, this Request is overbroad, unduly burdensome, and not
13 reasonably calculated to lead to the discovery of admissible evidence because it asks
14 for information beyond the three GNC products purchased by Plaintiffs (as alleged
15 in the Amended Complaint) and a class has not been certified (and should not be).
16 In fact, this request appears to request information about potentially all products sold
17 on the GNC.com website, and without any time limitation. GNC sells hundreds of
18 products online and in-store making discovery requests regarding every product sold
19 out of proportion with the issues in the lawsuit. GNC also objects that this Request
20 is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and
21 DATA” without limitation as to products or time period. GNC further objects to this
22 Request to the extent it calls for GNC to produce personally identifiable information.
23 GNC is not obligated to produce names and other identifying information of
24 customers who made complaints about discount pricing, when no class has been
25 certified.

26 Without waiving the foregoing objections, GNC will produce responsive, non-
27 privileged documents that constitute customer complaints, questions, or grievances
28 as well as GNC responses for each of the three products purchased by Plaintiffs (as

1 alleged in the Amended Complaint) from April 2012 to April 2016, if any such
2 documents exist.

3

4 **REQUEST NO. 40:**

5 All DOCUMENTS and DATA reflecting revenues from the sale of ONLINE
6 PRODUCTS.

7 **RESPONSE TO REQUEST NO. 40:**

8 GNC objects to this Request under General Objections 1 [relevance and
9 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
10 [proprietary information and trade secrets], and 7[supplementation].

11 Furthermore, this Request is overbroad, unduly burdensome, and not
12 reasonably calculated to lead to the discovery of admissible evidence because it asks
13 for information beyond the three GNC products purchased by Plaintiffs (as alleged
14 in the Amended Complaint) and a class has not been certified (and should not be).
15 In fact, this request appears to request information about potentially all products sold
16 on the GNC.com website, and without any time limitation. GNC sells hundreds of
17 products online and in-store making discovery requests regarding every product sold
18 out of proportion with the issues in the lawsuit. GNC also objects that this Request
19 is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and
20 DATA” without limitation as to products or time period.

21 Without waiving the foregoing objections, GNC will produce responsive, non-
22 privileged documents sufficient to show its revenues for each product purchased by
23 Plaintiffs (as alleged in the Amended Complaint) from April 2012 to April 2016, if
24 any such documents exist.

1 REQUEST NO. 41:

2 All DOCUMENTS and DATA comparing the profitability of ONLINE
3 PRODUCTS to IN-STORE PRODUCTS, including but not limited to sales
4 projections and cost analyses.

5 RESPONSE TO REQUEST NO. 41:

6 GNC objects to this Request under General Objections 1 [relevance and
7 scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6
8 [proprietary information and trade secrets], and 7[supplementation].

9 Furthermore, this Request is overbroad, unduly burdensome, and not
10 reasonably calculated to lead to the discovery of admissible evidence because it asks
11 for information beyond the three GNC products purchased by Plaintiffs (as alleged
12 in the Amended Complaint) and a class has not been certified (and should not be).
13 In fact, this request appears to request information about potentially all products sold
14 on the GNC.com website, and without any time limitation. GNC sells hundreds of
15 products online and in-store making discovery requests regarding every product sold
16 out of proportion with the issues in the lawsuit. GNC also objects that this Request
17 is overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and
18 DATA” without limitation as to products or time period. GNC further objects that
19 this Request has no bearing on the allegations of the Amended Complaint.

20 GNC will not produce documents in response to this Request.

21
22 REQUEST NO. 42:

23 All DOCUMENTS and DATA sufficient to identify all hardware and/or
24 software configurations on each of YOUR COMPUTER(S) that contain DATA
25 REFERRING or RELATING to:

- 26 (a) YOUR REGULAR PRICES or discounted pricing;
27 (b) Address or other contact information YOUR CUSTOMERS;
28 (c) YOUR websites, forums, and other social networks;

(d) YOUR electronic communications with its CUSTOMERS.

RESPONSE TO REQUEST NO. 42:

GNC objects to this Request under General Objections 1 [relevance and scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

Furthermore, this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it seeks information regarding GNC systems that is not relevant to Plaintiffs' allegations in the Amended Complaint. This Request is also overbroad and unduly burdensome because it seeks "[a]ll DOCUMENTS and DATA" and without limitation as to products, time period, or subject matter of content or communications.

GNC will not produce documents in response to this Request.

REQUEST NO. 43:

All DOCUMENTS and DATA that REFER or RELATE to all “data models” of each database(s) that contain contact information for CUSTOMERS who purchased goods from YOUR SITE.

RESPONSE TO REQUEST NO. 43:

GNC objects to this Request under General Objections 1 [relevance and scope], 2 [limitations on discovery], 3 [undue complexity], 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

Furthermore, this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it seeks information regarding GNC systems that is not relevant to Plaintiffs' allegations in the Amended Complaint. This Request is also overbroad and unduly burdensome because it seeks “[a]ll DOCUMENTS and DATA” and without limitation as to products or time period.

1 GNC will not produce documents in response to this Request.
2

3 **REQUEST NO. 44:**

4 All DOCUMENTS and DATA that REFER or RELATE to any policies,
5 terms or conditions, including YOUR “Policy & Agreement(s),” which YOU assert
6 governs any transaction with YOUR CUSTOMERS when purchasing goods from
7 YOUR SITE during the relevant time period.

8 **RESPONSE TO REQUEST NO. 44:**

9 GNC objects to this Request under General Objections 3 [undue complexity],
10 4 [privilege], 6 [proprietary information and trade secrets], and 7 [supplementation].

11 Furthermore, this Request is also overbroad and unduly burdensome because
12 it seeks “[a]ll DOCUMENTS and DATA that REFER or RELATE” to any policies
13 or terms and conditions rather than asking for just the policies or terms and
14 conditions themselves.

15 Without waiving the foregoing objections, GNC will produce responsive, non-
16 privileged documents that constitute policies or terms and conditions that govern
17 customer purchases online from April 2012 to April 2016, if any such documents
18 exist.

19
20 **REQUEST NO. 45:**

21 All DOCUMENTS and DATA that REFER or RELATE to Plaintiffs Jenna
22 Kaskorkis or Kim Carter.

23 **RESPONSE TO REQUEST NO. 45:**

24 GNC objects to this Request under General 3 [undue complexity], 4
25 [privilege], and 7 [supplementation].

26 Without waiving the foregoing objections, GNC will produce responsive, non-
27 privileged documents it has concerning Plaintiff Jenna Kaskorkis and transaction(s)

1 she made on the GNC.com website. Due to a lack of information, GNC cannot
2 locate records regarding Plaintiff Kim Carter.
3
4

5 DATED: September 26, 2016

DAVIS WRIGHT TREMAINE LLP
JAMES D. NGUYEN
SEAN M. SULLIVAN
ZANA BUGAIGHIS

10 By:/s/ Zana Bugaighis

11 JAMES D. NGUYEN
12 SEAN M. SULLIVAN
ZANA BUGAIGHIS

13 Attorneys for Defendants
14 General Nutrition Centers, Inc. and
15 GNC Holdings, Inc. (erroneously
named as General Holdings, Inc.)
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PROOF OF SERVICE BY ELECTRONIC MAIL

I am employed in the County of King, State of Washington. I am over the age of 18 and not a party to the within action. My business address is Davis Wright Tremaine LLP, Suite 2200, 1201 Third Avenue, Seattle, Washington 98101.

On September 26, 2016, I served the foregoing document(s) described as:

**DEFENDANT GENERAL NUTRITION CENTERS, INC.'S OBJECTIONS
AND RESPONSES TO PLAINTIFFS' FIRST SET OF REQUESTS FOR
PRODUCTION**

By forwarding a **true copy** of said document(s) for each addressee named below, to their respective electronic mail addresses:

Nick Suciu III
BARBAT, MANSOUR & SUCIU PLLC
434 West Alexandrine Street
Suite 101
Detroit, MI 48201
nicksuciu@bmslawyers.com

Tina Wolfson
Robert R. Ahdoot
Theodore W. Maya
Vanessa T. Shakib
Ahdoot & Wolfson, PC
1016 Palm Avenue
West Hollywood, CA 90069

twolfson@ahdootwolfson.com
rahdoot@ahdootwolfson.com
tmaya@ahdootwolfson.com
vshakib@ahdootwolfson.com

Trenton R. Kashima
FINKELSTEIN & KRINSK LLP
550 West C Street, Suite 1760
San Diego, CA 92101

Executed on September 26, 2016, at Seattle, Washington.

Federal I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Anita A. Miller

/s/*Anita A. Miller*

Signature